

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
MIDDLE DIVISION**

MARKUS O'SHEA PAYNE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 4:24-cv-00188-LCB-SGC
	)	
NURSE SHIANNA, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**MEMORANDUM OPINION**

This is an action pursuant to 42 U.S.C. § 1983 filed by Markus O'Shea Payne, who is proceeding *pro se*. (Doc. 1). On February 21, 2024, the court granted Payne's application to proceed *in forma pauperis* and ordered him to pay an initial partial filing fee of \$7.38 and return a signed copy of the Prisoner Consent Form attached to the order within 30 days. (Doc. 4).

Payne timely returned his Prisoner Consent Form (Doc. 5), but he did not remit the initial partial filing fee, and so on March 21, 2024, he was ordered to remit the fee or provide a sworn statement describing his attempts to ensure the fee was paid. (Doc. 6). That order was returned to the court as undeliverable with the handwritten notation "gone."

On May 24, 2024, the magistrate judge entered a report recommending this action be dismissed without prejudice under Rule 41(b) of the *Federal Rules of Civil*

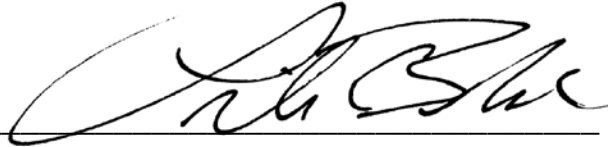
*Procedure* for failure to prosecute. (Doc. 8). Payne was advised of his right to file written objections to the Report and Recommendation within 14 days. On June 10, 2024, however, the United States Postal Service returned the Report and Recommendation with the following notations: “Return to Sender,” “Not Deliverable as Addressed,” and “Unable to Forward.” (Doc. 9). The court has not received any objections or other response from Payne.

When he filed his complaint, Payne agreed to provide the Clerk’s Office with any changes to his address and acknowledged that his failure to keep a current address on file with the Clerk’s Office might result in the dismissal of his case. (Doc. 1 at 10). Payne has not maintained a current mailing address with the court, and two orders sent to him have now been returned as undeliverable. The court has no way to communicate with Payne, and the record reflects no attempt by Payne to continue prosecuting this action.

After careful consideration of the record in this case and the magistrate judge’s report, the court **ADOPTS** the report and **ACCEPTS** the recommendation. (Doc. 8). Consistent with that recommendation, this action will be dismissed without prejudice because Payne has failed to prosecute his claims. *See* FED. R. CIV. P. 41(b).

A final judgment will be entered.

**DONE** and **ORDERED** this June 21, 2024.

A handwritten signature in black ink, appearing to read 'L.C. Burke', is written over a horizontal line.

**LILES C. BURKE**  
UNITED STATES DISTRICT JUDGE